

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

RANDALL MILLER,

Case # 0079012442

Charging Party,

ORDER

-v-

KALISPELL SCHOOL DISTRICT NO. 5,

Respondent.

Randall Miller (Miller) filed a complaint with the Department of Labor and Industry (Department) alleging that Kalispell School District No. 5 (Kalispell School) retaliated against him by failing to accommodate his disability. Following an informal investigation, the Department determined that a preponderance of the evidence did not support Miller's allegations of unlawful discrimination. The Department issued a Notice of Dismissal. Miller filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on March 20, 2008. Miller appeared and argued on his own behalf. Jeff Hindoien appeared and argued on behalf of Kalispell School.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Section 49-2-511(3)(a), MCA*. If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Section 49-2-511(3)(b), MCA; Mont. Code Ann. § 2-4-702.* This review must be requested within 30 days after the date this order is issued.

IT IS HEREBY ORDERED, that Randall Miller's objections are **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Kalispell School District No. 5.

DATED this ____ day of March, 2008.

Chair Ryan C. Rusche
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this _____ day of March 2008.

RANDALL MILLER
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Montana Human Rights Bureau